

1 David N. Lake, Esq., State Bar No. 180775
2 LAW OFFICES OF DAVID N. LAKE,
3 A Professional Corporation
4 16130 Ventura Boulevard, Suite 650
5 Encino, California 91436
6 Telephone: (818) 788-5100
7 Facsimile: (818) 788-5199
8 david@lakelawpc.com

9 Attorneys for Plaintiffs

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 ADVANCED ADVISORS, G.P.,
13 Plaintiff,

14 v.

15 STEPHEN BERMAN, an individual et.
16 al.; Defendants.
17 and
18 JAKKS PACIFIC, INC.,
19 Nominal Defendant.

Case No. 2:14-cv-1420 JAK(SSx)

20 THE VLADIMIR GUSINSKY LIVING
21 TRUST,

22 Plaintiff,

23 v.

24 STEPHEN BERMAN, an individual et.
25 al.; Defendants.
26 and
27 JAKKS PACIFIC, INC.,
28 Nominal Defendant.

Case No. 2:15-cv-02027- JAK(SSx)

**NOTICE OF MOTION AND
MOTION TO CONSOLIDATE;
MEMORADUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

Date: April 23, 2015
Time: 8:30 a.m.
Place: Courtroom 750

JURY TRIAL DEMANDED

**TO THE HONORABLE COURT, ALL PARTIES AND THEIR
COUNSEL OF RECORD:**

PLEASE TAKE NOTICE that on April 23, 2015 at 8:30 a.m. in Department 750 of the above-captioned Court located at 255 East Temple Street, Los Angeles, CA 90012, the Honorable John A. Kronstadt presiding, Plaintiffs in the above-captioned cases, Advanced Advisors, G.P. (“Advanced Advisors”) the Louisiana Municipal Police Employees Retirement System (“LMPERS”) and The Vladimir Gusinsky Living Trust (the “Gusinsky Trust”) (collectively, “Plaintiffs”), will and do hereby respectfully move the Court to consolidate Case No. 2:14-cv-1420 JAK(SSx) and Case No. 2:15-cv-02027-JAK(SSx) for all purposes pursuant to Federal Rule of Civil Procedure 42(a).

This motion is made following the conference of counsel pursuant to L.R. 7-3 which took place on March 24, 2015. Counsel for defendants Stephen Berman, Michael G. Miller, Murray L. Skala, Robert E. Glick, Marvin Ellin, Dan Almagor, Leigh Anne Brodsky, and Peter F. Reilly (collectively “Defendants”), and nominal defendant JAKKS Pacific, Inc. (“JAKKS”), have informed Plaintiffs’ counsel that they do not oppose this motion (“Motion”).

The Motion is based on this Notice of Motion, the attached memorandum of points and authorities, all pleadings, records and files in this action, and on such evidence that may be presented at or before the time of hearing.

Dated: March 26, 2015

LAW OFFICES OF DAVID N. LAKE

By: /s/
David N. Lake
Plaintiffs’ Liaison Counsel

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BLOCK & LEVITON LLP

Jeffrey C. Block
Joel A. Fleming (281264)
155 Federal Street
Boston, MA 02110
617-398-5600
617-507-6020 (Fax)
jeff@blockesq.com
joel@blockesq.com

**THE PASKOWITZ LAW
FIRM P.C.**

Laurence D. Paskowitz
208 East 51st Street Suite 380
New York, NY 10022
212-685-0969
212-685-2306 (Fax)
classattorney@aol.com

Plaintiffs' Co-Lead Counsel

Richard A. Maniskas, Esq.
RYAN & MANISKAS, LLP
995 Old Eagle School Road, Suite 311
Wayne, PA 19087
484-588-5516
484-450-2582 (Fax)

Attorneys for Plaintiff The Vladimir
Gusinsky Living Trust

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 In support of their Motion To Consolidate, Advanced Advisors, G.P.
3 (“Advanced Advisors”) the Louisiana Municipal Police Employees Retirement
4 System (“LMPERS”) and The Vladimir Gusinsky Living Trust (the “Gusinsky
5 Trust”)(collectively, “Plaintiffs”), hereby respectfully submit this memorandum of
6 points and authorities.

7 **I. INTRODUCTION**

8 By this unopposed motion, Plaintiffs ask the Court to consolidate Case No.
9 2:14-cv-1420 JAK(SSx) and Case No. 2:15-cv-02027 JAK(SSx) for all purposes
10 pursuant to Federal Rule of Civil Procedure 42(a).

11 **II. FACTS**

12 The above-captioned cases are both shareholder derivative actions brought for
13 the benefit of nominal defendant JAKKS Pacific, Inc. (“JAKKS” or the
14 “Company”) against certain present and former members of JAKKS’ Board of
15 Directors (the “Director Defendants”) and involve substantially identical issues of
16 law and fact. On March 24, 2015, Case No. 2:15-cv-02027 TJH(ASx) was
17 transferred to Judge Kronstadt under General Order 14-03.

18 In substance, the complaints allege that the Director Defendants, in an attempt
19 to entrench themselves, enacted a shareholder rights plan and a stock buy-back
20 program that prevented a buy-out of the Company at an advantageous price. This
21 Court, by order dated September 17, 2014, denied Defendants’ motion to dismiss
22 claims for breach of fiduciary duty relating to the shareholder rights plan and the
23 stock buyback and dismissed certain other claims.

24 On March 23, 2015 the parties entered into a Stipulation of Settlement as to
25 all claims in the *Advanced Advisors* and *Gusinsky Trust* actions and have requested
26 the Court to approve a Notice and set a date for a final approval hearing.
27
28

1 III. ARGUMENT

2 A. These Cases Should Be Consolidated

3 Under Federal Rule of Civil Procedure 42(a), actions that “involve a common
4 question of law or fact” may be consolidated. *See also* General Order 08-05
5 Paragraph 5.1.1(a)-(b) (cases are related where they “arise from the same or a
6 closely related transaction, happening, or event;” or “call for determination of the
7 same or substantially related or similar questions of law and fact.”).

8 Here, the complaints in the two above-captioned actions involve the same
9 defendants. Both complaints allege substantially the same facts, including
10 allegations that the Board acted improperly to entrench itself and that the Board
11 breached their fiduciary duties.

12 As set forth in Plaintiff’s points and authorities in support of preliminary
13 approval of the settlement, Docket # 87, Defendants moved for judgment on the
14 pleadings as they allege that LMPERs no longer has standing and there is a lack of
15 complete diversity between Advanced Advisors and the remaining defendants.
16 Plaintiff, Gusinsky Trust, has owned JAKKS shares at all relevant times and is a
17 citizen of the state of Illinois, which is completely diverse from all defendants.
18 Consolidation will not affect diversity jurisdiction¹.

22 ¹ *See Schnabel v. Lui*, 302 F.3d 1023, 1036 (9th Cir. Cal. 2002); *Continental Airlines*
23 *v. Goodyear Tire & Rubber Co.*, 819 F.2d 1519, 1523 n.1 (9th Cir. 1987); *Cella v.*
24 *Togum Constructeur Ensembleier en Industrie Alimentaire*, 173 F.3d 909, 913 (3d
25 Cir. 1999)(holding that complete diversity existed “even after consolidation”);
26 *Charaa v. Intel Corp.*, 410 F. Supp. 2d 1080, 1094 (D.N.M. 2005) (noting that
27 “[a]lmost all cases concerning consolidation have determined that separately filed
28 cases retain their separate characters despite consolidation” and that the Fifth and
Tenth Circuits in particular had “indicated ... that consolidated cases should be
treated separately for the purpose of determining jurisdiction.”), *aff’d*, 245 F. App’x
784 (10th Cir. 2007).

1 **IV. CONCLUSION**

2 For all the foregoing reasons, Plaintiffs respectfully request that the Court
3 consolidate Case No. 2:14-cv-1420 JAK(SSx) and Case No. 2:15-cv-02027
4 JAK(SSx) for all purposes.

5 Dated: March 26, 2015

LAW OFFICES OF DAVID N. LAKE

6
7 By: /s/
8 David N. Lake
9 *Plaintiffs' Liaison Counsel*

10 **BLOCK & LEVITON LLP**
11 Jeffrey C. Block
12 Joel A. Fleming (281264)
13 155 Federal Street
14 Boston, MA 02110
15 617-398-5600
16 617-507-6020 (Fax)
17 jeff@blockesq.com
18 joel@blockesq.com

19 **THE PASKOWITZ LAW FIRM P.C.**
20 Laurence D. Paskowitz
21 208 East 51st Street Suite 380
22 New York, NY 10022
23 212-685-0969
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25 classattorney@aol.com
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Attorney for Plaintiff The Vladimir
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